

C-02-200

8-6-02

Rule Corrections and Amendments Approval Form

April 23, 2002

to: Greg Scott, Rules Contact
Department of Education

05-071 Ch. 33, 125
2002-104

Please scrutinize the attached electronic version of your rule(s). Return this form to the APA Office (101 State House Station) within 30 days. If there are corrections, annotate a printed copy with a red pen and attach the corrected pages to the form. No need to return the diskette. Thank you.

Don Wismer

Administrative Rules Coordinator (624-7647)

Chapter(s) Microsoft Word for Windows 2.0 format:

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|---------|-----|--------|----------|-------|
| 071C033 | DOC | 14,848 | 04-23-02 | 1:40p |
| 071C125 | D04 | 79,360 | 04-23-02 | 1:40p |

Action taken:

Part of Chapter 125 excised and made into new Chapter 33.

Signature of agency representative:

We have reviewed the electronic version of the rule(s) described above and:

- Approve it. - *Approval is for Ch. 33 (Attached) as it excised sub-section 125.17D and established the new Chapter 33. Chapter 125 was correct in final and is on file in your office.*
- Approve it with the attached additional corrections. *Chapter 33.*

Signature:

Date: 7/9/02

05-071 DEPARTMENT OF EDUCATION

Chapter 33: REGULATIONS GOVERNING TIMEOUT ROOMS, THERAPEUTIC RESTRAINTS AND AVERSIVES IN PUBLIC SCHOOLS AND APPROVED PRIVATE SCHOOLS

Section 1. In General

1.1 Policy and Purpose

These regulations establish standards for the use of separate, isolated timeout rooms and the use of therapeutic restraint when the behavior of a student presents a risk of injury or harm to the student or others, significant property damage, or seriously disrupts the educational process and other less intrusive interventions have failed. Nothing in these rules would require an SAU or approved private school to construct or use a timeout room or implement a program of therapeutic restraint. Schools that are licensed as residential child care facilities or mental health treatment centers and governed by other state standards shall comply with the higher standard. Nothing within these rules limit the protections of individual students under applicable special education standards.

1.2 Local Policy Required

Each School Administrative Unit and each approved private school shall develop local policies and procedures relating to the use of timeout rooms and therapeutic restraint prior to initiating such interventions in their schools. School Administrative Units and approved private schools which have local policies and / or permit the use of timeout rooms and / or therapeutic restraint shall revise existing policies or develop policies consistent with these rules within 90 calendar days of the effective date of these rules. These policies and procedures shall be developed with input, as needed, from representatives of related disciplines such as special education, psychology, school psychology, social work and / or counseling. SAUs and approved private schools shall establish a process to review, at least annually, the use of timeout rooms and therapeutic restraint and to make recommendations as necessary to the governing body for changes in local policy.

1.3 Documentation

Each use of a timeout room and / or therapeutic restraint shall be documented. The documentation shall include at a minimum, the date and time of initiation, the time of termination, the student, the location, the antecedent events prior to the behavioral episode, the behavior that resulted in the use of timeout and / or

therapeutic restraint, the type of intervention, and the staff person(s) involved in the use of timeout and / or therapeutic restraint. This documentation shall be written as soon as practical after the incident and provided to the program administrator or designee within 2 school days of the incident. The program administrator or designee shall inform the parents or guardians of the use of timeout or therapeutic restraint as soon thereafter as practical.

Section 2. Definitions

2.1 Timeout

Removal to a timeout room is a therapeutic intervention to bring the behavior of a student presenting a risk of injury or harm to self or others or significant property damage under control. The purpose of the use of timeout rooms is to reduce the frequency and intensity of harmful behaviors, to permit the student to regain his or her composure and to assist the student to return to the learning environment. Timeout includes requiring a student to leave the classroom, playground, or other educational setting and go to a designated timeout room for a period of time specified in these rules and local policy. For purposes of these rules, timeout is limited to a designated timeout room. The term does not include disciplinary actions imposed by a school administrator or teacher / staff imposed behavior interventions. Examples of disciplinary actions imposed by a school administrator include, but are not limited to, detention and "in school suspension." Examples of teacher / staff imposed behavior interventions include, but are not limited to, requesting a student to sit in a "quiet chair" within the classroom, directing a student to put his / her head on their desk, sending a student to the principal's office, etc. These exclusions may not be used to circumvent the intent of these rules.

2.2 Timeout Room

A time out room is a designated space, separate from a student's classroom, which is used to isolate a student from his or her peers and school activities. All timeout rooms will meet the standards specified in these rules.

2.3 Therapeutic restraint

Therapeutic restraint is the use of a therapeutic physical intervention with a student by an appropriately trained staff person to prevent injury or harm to the student or others. Title 20-A, §4009 permits staff to use a reasonable degree of force to intervene and control emergency situations. Nothing in these regulations applies to any conduct by a school official that would otherwise be covered by the legal protections of 20-A MRSA §4009.

Section 3. Time Out Room

3.1 Limitations on the use of timeout room

Timeout rooms shall be used consistent with local policy to reduce dangerous behaviors and only after less intrusive interventions have failed. Timeout rooms may be used for either an emergency intervention or as part of an intervention plan. Local policy will determine when a pattern of the use of timeout rooms requires referral to the appropriate intervention team and / or the development of an individualized intervention plan. Parents or guardians shall be involved in the development of any individualized intervention plans. Timeout rooms shall not be used for punitive purposes, staff convenience or to control minor misbehavior.

3.2 Time limitations on the use of timeout rooms

Use of timeout rooms shall be limited in duration to that time necessary to allow the student to compose him/herself and return to the classroom. The use of timeout shall be consistent with local policy and the student's individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this period the use of timeout may be continued with written authorization of the program administrator or designee.

3.3 Adult supervision

Students in a timeout room shall be directly observed at all times by a staff person.

3.4 Physical Characteristics

Timeout rooms will be a minimum of 60 square feet with adequate light, heat, and ventilation and of normal room height. The door to the timeout room may not be locked, latched or secured in any way that would prevent the student from exiting the room. An unbreakable observation window shall be located in a wall or door to permit continuous observation of the student and any staff member in the timeout room.

Section 4. Therapeutic restraint

4.1 Permitted uses of therapeutic restraint

Appropriately trained staff may physically intervene with a student to prevent injury or harm to the student or others. Therapeutic restraint may be used for either an emergency intervention or as part of an intervention plan. The intervention shall occur only after less intrusive efforts to control the behavior

have been attempted. The intervention shall involve the least amount of physical contact necessary, shall be implemented consistent with the standards of a training program as specified in §4.5 and consistent with local policy. The use of therapeutic restraint shall require the presence of at least two adults at all times. Title 20-A, §4009 permits a single individual to use a reasonable degree of force in emergency situations to control or remove the student.

4.2 Time limits on the use of therapeutic restraint

Use of therapeutic restraint shall be limited in duration consistent with local policy and the student's individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this time period, the use of therapeutic restraint may be continued with written authorization of the program administrator or designee.

4.3 Exclusions

Protective equipment or devices that are part of a treatment plan prescribed by a physician or psychologist for treatment of a chronic condition are not prohibited by these regulations.

4.4 Mechanical or Chemical Restraints Prohibited

The term "therapeutic restraint" does not include mechanical or chemical restraints used to control or modify a student's behavior. Chemical restraints include but are not limited to medication, noxious sprays or gases. Prescribed medication administered by a health care provider consistent with a student's health care plan are permitted. Mechanical restraints are prohibited.

4.5 Training

Except as provided by Title 20-A, §4009, individuals who implement or supervise the implementation of therapeutic restraint shall have successfully completed an appropriate training program in the identification and de-escalation of potentially harmful behaviors and the safe use of passive physical therapeutic restraints. This training includes, but is not limited to, Non-Abusive Psychological and Physical Intervention (NAPPI), Mandt, Crisis Prevention Institute, Therapeutic Crisis Intervention Training, and other training as determined appropriate by local policy.

Section 5. Aversives

5.1 Use of Aversive Therapy or Treatment Prohibited

A school administrative unit or an approved private school may not use aversive therapy or treatment in order to modify or change a student's behavior. Aversive therapy or treatment includes the application of unusual, noxious or potential hazardous substances, stimuli or procedures to a student. Such substances, stimuli and procedures include but are not limited to: water spray, hitting, pinching, slapping, noxious fumes, extreme physical exercise, costumes or signs.

STATUTORY AUTHORITY: 20-A MRSA §4502(5)(M)

EFFECTIVE DATE:

July 29, 2001 - added as sub-section 17(D) to Chapter 125, "Basic Approval Standards: Public Schools and School Units".

EFFECTIVE DATE:

April 27, 2002 - filing 2002-104 accepted March 28, 2002: sub-section 125.17(D) removed from Chapter 125 and established as new Chapter 33, "Regulations Governing Timeout Rooms, Therapeutic Restraints and Aversives in Public Schools and Approved Private Schools"
